

INTERNAL REVENUE SERVICE

January 23, 2001

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Attention: [REDACTED]

Dear [REDACTED]

I am responding to your January 5, 2001, inquiry on behalf of your constituent, [REDACTED] requested information on the excise tax on the sale of frequent flyer miles.

[REDACTED] original letter says an item on a receipt from a car rental company contained a charge for federal excise tax on the frequent flyer miles credited to his account. The Congress in the Taxpayer Relief Act of 1997 added section 4261(e)(3) to the Internal Revenue Code. Under that section, any amount paid for the right to award frequent flyer miles is subject to an excise tax. Thus, in [REDACTED] situation, when the car rental company purchased the right to award the frequent flyer miles, it paid the tax to the air carrier selling the miles. The air carrier then should have paid the tax to the United States. Because [REDACTED] is not paying any amount for the right to award any frequent flyer miles, this tax does not apply to his transaction with the car rental company. The rental car company may be showing an amount representing the tax paid on its purchase of the frequent flyer miles on the receipt given to [REDACTED] but the tax does not apply to his receipt of the miles as a consequence of renting a car.

This tax, as well as several other federal excise taxes relating to air transportation, is paid into the Airport and Airway Trust Fund (the Trust Fund). Amounts in the Trust Fund are used to plan, construct, develop, operate, and maintain air traffic control, air navigation, and communications for the airway system. In addition, certain portions of the budget of the Department of Transportation concerned with air transportation and air safety, including over half of the expenditures of the Federal Aviation Administration, come from the Trust Fund.

I hope this information is helpful to you in responding to [REDACTED]. If you have any questions, please contact me at [REDACTED]
[REDACTED]

Sincerely,

Paul F. Kugler
Associate Chief Counsel
(Passthroughs and Special Industries)